

VICTORY FOR TOWN HAS STATEWIDE IMPLICATIONS FOR CHALLENGES TO REAL PROPERTY ASSESSMENTS

A favorable decision obtained by a Hodgson Russ team led by Michael B. Risman could discourage the practices of owners of low-income housing who use disputed income and expense information to challenge real property assessments. In the case, Hodgson Russ defended a town assessor in responding to a petition brought by the owner of a low-income housing facility. The property owner claimed in a tax certiorari proceeding that the town's assessment of the property was illegal and sought to have the assessed value of the low-income housing facility dropped. The owner cited Section 581-a of the Real Property Tax Law (RPTL), which gives the owners of low-income rental properties the right to have their properties valued for tax purposes by the "capitalization of income" method. Assessing a property's value using this method requires the owner to provide information detailing the property's income and expenses — and in many cases, property owners have done so with the expectation that assessors must accept only the information they submit and take it at face value. However, in this case, Mike argued there were numerous concerns with the information provided by the owner of the building, including questions about the reasonableness and accuracy of the expenses claimed and the fact that the owner used only one year's worth of income and expenses to calculate the appraised value, rather than the standard and more appropriate five-year average of income and expenses. The judge ruled in the town assessors favor and denied the property owner's motion for summary judgment. The ruling made clear that municipal assessors have the right to question the expenses claimed by owners of low-income housing for tax assessment purposes.

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